IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

Criminal Misc. Application No. 619 of 2001 (New No)
Criminal Misc. Application No. 8239 of 1988 (Old No)

Chandrapal ….Applicant

Versus

State of U.P. …. Opposite Party

Sri Lokendra Dobhal learned counsel for the applicant/petitioner
Learned A.G.A. for the opposite party

Hon'ble B.C. Kandpal, J.

This criminal misc. application has been filed under Section 482 Cr.P.C. by the applicant Chandrapal for quashing the chargesheet filed against him as well as the proceeding pending in the court of Special Judge (E.C. Act) Dehradun.

Brief facts giving rise to this petition are that the applicant/petitioner is a general merchant running the firm with the name and style of M/s Praja mal Jagdish Lal in Vikas Nagar, Dehradun. On 16.09.1984 at about 11.00 a.m., the Additional Sub Divisional Magistrate, Dehradun inspected the shop of the petitioner and found certain irregularities. The physical stock of the vegetable oil was found in excess as per the stock register. There was no stock register pertaining to the sale of vegetable oil as well as pertaining to certain other oils. The Sub Divisional Magistrate, therefore, was of the opinion that the petitioner had violated the certain orders under the provision of U.P. Sale Regulation Order, 1956 as well as U.P. Vegitable Oil Dealer Licence Order punishable under the Essential Commodities Act.

Chargesheet was submitted before the court of Special Judge Essential Commodities Act, Dehradun and after

submission of the chargesheet, the petitioner raised the preliminary objections that the case be dismissed as the cognizance is barred by the provisions of Section 190(b) Cr.P.C.

The court below dismissed the objections raised by the petitioner and accordingly dismissed the application filed by the petitioner.

Feeling aggrieved by the aforesaid impugned order dated 03.08.1988 the petitioner has filed the petition under Section 482 Cr.P.C. which has been placed before this Court for disposal.

Heard learned counsel for both the parties and perused the record.

Learned counsel for the petitioner has argued before me that the petitioner being son of Jagdish Lal, proprietor of the firm, had gone to visit the shop of his father and was in fact not involved in any business transaction at the time of the occurrence. It has also been submitted that the petitioner is not a partner of the firm. So whatever the liability could be placed at the time of the occurrence, it would be against Jagdish Lal and not against the petitioner.

Having considered the argument advanced by the learned counsel for the petitioner, I am of the view that the submission is of no avail. Whether the petitioner is a partner of the firm or not, depends upon the evidence and cannot be decided at the preliminary stage.

As far as this argument that the cognizance is barred under Section 190(b) Cr.P.C. is concerned, the same also does not bear any merit as all the documentary and oral evidence

gathered during the investigation is still to be considered by the trial court.

This Court at this stage while deciding the petition under Section 482 Cr.P.C. would not be justified in embarking upon an inquiry as to the reliability or genuineness of the allegations made in the complaint on the basis of the evidence collected during investigation.

I therefore, do not find any force in this petition and the same is accordingly, dismissed.

July 21st 2004 **(B.C. Kandpal, J.)**
ASWAL